

Hon. Richard Jones  
Hon. James P. Donohue

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

KYLE LYDELL CANTY,

Plaintiff,

vs.

CITY OF SEATTLE, et al.,

Defendants.

NO. 2:16-CV-01655-RAJ-JPD

CITY OF SEATTLE DEFENDANTS'  
REPLY IN SUPPORT OF MOTION TO  
DISMISS OR IN THE ALTERNATIVE TO  
COMPEL DISCOVERY

NOTED ON MOTIONS CALENDAR:  
OCTOBER 27, 2017

**I. INTRODUCTION**

Defendants City of Seattle, Officer Marshall Coolidge, Sean Culbertson, Timothy Renihan and Officer Hancock (hereinafter collectively "the City") submit this reply memorandum in support of their motion to dismiss or in the alternative to compel discovery.

**II. ARGUMENT**

The City timely filed and served Plaintiff with a motion to dismiss based on his willful discovery violatoins, or in the alternative to compel discovery, having noted it for consideration on October 27, 2017. Any response in opposition to the motion was due to be filed and served no later than October 23, 2017. To date, Plaintiff has filed no response to the motion and any response filed hereafter is untimely.

“Except for motions for summary judgment, if a party fails to file papers in opposition to a motion, such failure may be considered by the court as an admission that the motion has merit.” LCR 7(b)(2). Here, because Plaintiff has failed to file any opposition to the City’s motion, the motion should be granted. This case should be dismissed based on Plaintiff’s wilfull discovery violations, which include refusing to appear at a duly noted deposition, failing to respond to written discovery requests, failing to sign authorizations for relevant medical records, refusing to accept documents that are mailed to him, and refusing even to discuss these matters with counsel. Should this court not find that these wilfull violations merit dismissal, then an order compelling this discovery with an admonition that futher discovery violations will result in dismissal should be entered.

### III. CONCLUSION

For all the forgoing reasons, the court should dismiss this matter with prejudice. In the alternative, the court should enter an order compelling Mr. Canty to accept documents mailed to him, to answer the City’s discovery requests, to sign authorizations for his medical records, to appear for his deposition, and to cooperate in responding to discovery.

DATED this 26th day of October, 2017.

s/ John R. Nicholson

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Attorneys for Defendants City of Seattle,  
Officer Marshall Coolidge, Sean Culbertson,  
Timothy Renihan and Officer Hancock

**CERTIFICATE OF SERVICE**

I certify that on the 26th day of October, 2017, I electronically filed the foregoing documents with the Clerk of the Court using CM/ECF E-Filing Systems, and notifying of such filing to the following:

Pro se Plaintiff,  Kyle Lydell Canty DOC #401358 Washington Corrections Center P.O. Box 900 Shelton, WA 98584 <a href="mailto:DOCWCCInmateFederal@DOC1.WA.GOV">DOCWCCInmateFederal@DOC1.WA.GOV</a>	( X ) ECF Electronic Filing
Samantha D. Kanner, WSBA #36943 Deputy Prosecuting Attorney King County Prosecuting Attorney's Office 500 Fourth Avenue, 9 <sup>th</sup> Floor Seattle, WA 98104 (206) 296-8820 <a href="mailto:SamanthaKanner@kingcounty.gov">SamanthaKanner@kingcounty.gov</a>  Attorney for King County	( X ) ECF Electronic Filing

I certify under the penalty of perjury under the laws of the United States and the State of Washington that the foregoing is true and correct.

DATED this 26th day of October, 2017, in Seattle, Washington.

s/Kathie Fudge  
 KATHIE FUDGE, Legal Assistant  
 kathief@fjtlaw.com